REMARKS

Claims 1-21, 24-25, 27, and 29-34 are pending in the application. In an Office Action mailed August 23, 2002, Claim 1 was rejected under 35 U.S.C. § 102, and Claims 2-5 were rejected under 35 U.S.C. § 103. Claims 14-21, 24, 25, 27, and 29-34 were allowed. Finally, Claims 16-13 were noted as containing allowable subject matter. Applicant thanks the Examiner for the notice of allowed and allowable subject matter. Claim 1 has been amended above to clarify the invention.

In view of the foregoing claim amendment, and the remarks that follow, applicant respectfully submits that all claims are now in condition for allowance.

Rejections Under 35 U.S.C. § 102

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,951,027, issued to Oyen et al.[1] Applicant respectfully submits that amended Claim 1 is not anticipated by Oyen et al.

Before addressing the merits of the Office Action, applicant briefly summarizes one embodiment of the present application. In that regard, the embodiment of amended Claim 1 is generally directed to a skate frame that includes flexible vibration dampening means integrally formed with sidewalls of the skate frame. The flexible vibration dampening means includes a contour portion of each of the first and second sidewalls, wherein the contour portion has a predetermined cross-sectional shape to permit the *sidewalls* to flex, thereby absorbing at least a portion of vibrational energy associated with traversing a surface. Applicant respectfully submits that Oyen et al. fail to teach or suggest such a skate frame.

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[1] Applicant respectfully notes that Oyen et al. was published on September 14, 1999, more than a year after applicant's filing date of the present application. Accordingly, applicant respectfully submits that Oyen et al. is not prior art under 35 U.S.C. § 102(b), but instead is prior art under 35 U.S.C. § 102(e).

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Oyen et al. is generally directed to an in-line roller skate that includes a "series of spring plugs or discs 68 which are formed of a suitable compressible material, such as a polyurethane elastomer, or the like." Column 10, lines 47-50. Oyen et al. expressly teach that the purpose of the spring plugs or discs 68 are to "act like compression springs and provide shock absorbing capacity to the wheels when the wheels contact bumps or uneven terrain." Column 10, lines 50-53. The degree of elasticity of the discs 68 may be chosen with regard to skater weight and ability for various road condition and skating styles. Thus, Oyen et al. generally disclose a skate frame that includes a series of discs, wherein the discs act like compression springs and provide shock absorbing capacity to the wheels.

Applicant respectfully notes that Oyen et al. fail to teach or suggest a skate frame that includes flexible vibration dampening means having a contoured portion, wherein the contoured portion includes a predetermined cross-sectional shape to permit the sidewalls to flex, as now generally set forth in amended Claim 1. Instead, Oyen et al. merely teach a skate frame having a series of discs, wherein the *discs*, and not the sidewalls of the skate frame, provide shock absorbing capacity to the wheel. Moreover, applicant respectfully notes that there is no teaching or suggestion within Oyen et al. of flexible vibration dampening means that includes a contour portion having a "predetermined cross-sectional shape to permit the sidewalls to flex," as generally set forth in amended Claim 1.

Accordingly, applicant respectfully submits that Claim 1 is not anticipated or rendered obvious by Oyen et al., whether taken individually or in hypothetical combination with the other references of record.

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Rejections Under 35 U.S.C. § 103

Claims 2-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Oyen et al. as applied to Claim 1, and further in view of U.S. Patent No. 5,092,614, issued to Malevicz. Applicant respectfully disagrees.[2]

As noted above, Oyen et al. fail to teach or suggest a skate frame that includes a flexible vibration dampening means having a contoured portion, wherein the contoured portion includes a predetermined cross-sectional shape to permit the *sidewalls to flex*, as now set forth in Claim 1. Instead, Oyen et al. merely teach a skate frame that includes a series of discs adapted to provide shock absorbing capabilities to the wheels of the skate frame. Thus, Oyen et al. fail to teach or suggest a skate frame that includes flexible vibration dampening means having a contoured portion defining a predetermined cross-sectional shape to permit the sidewalls to flex, as generally set forth in amended Claim 1. Malevicz fails to address and, therefore, cannot overcome the foregoing shortcomings of Oyen et al.

Malevicz teaches a skate frame that includes front and rear mounting surfaces 200, 204, 210, and 214 that *resist side-to-side flexing* of the skate frame. Column 11, lines 30-32 (emphasis added). Additionally, Malevicz *expressly* teaches that the skate frame, which includes the curved portions 130 and 160, in general provides a more stable structure than prior art because "they *resist* lateral twisting and *flexing*" better than prior art frames. Column 11, lines 35-39 (emphasis added). Thus, Malevicz teaches an in-line skate frame that includes curved portions to *resist* flexing. This is not the embodiment of Claim 1.

Applicant respectfully submits that there is no teaching or suggestion in Malevicz of flexible vibration dampening means having a cross-sectional shape to permit sidewalls of a skate

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[2] Applicant notes that Claim 1 has been amended to include the limitation of former dependent Claim 2.

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frame to flex, as generally set forth in Claim 1. As noted above, the frames of Malevicz, which *include* the curved portions 130 and 160 "*resist* lateral twisting and *flexing.*" Column 11, lines 35-39 (emphasis added). Thus, Malevicz expressly teaches away from *flexible* vibration dampening means that includes a contoured portion having a predetermined cross-sectional shape to *permit* the *sidewalls* to *flex*, as set forth in amended Claim 1. Applicant further notes that there is no teaching or suggestion of a need or desire for flexible vibration dampening means integrally formed with the sidewalls of a skate frame for absorbing at least a portion of vibrational energy, as generally recited in Claim 1. Instead, Malevicz *expressly* teaches away from flexible sidewalls. Specifically, the sidewalls of Malevicz are expressly described as *resisting* lateral twisting and flexing. Column 11, lines 38-39. Thus, a hypothetical combination of Oyen et al. and Malevicz fails to teach or suggest the embodiment of amended Claim 1.

Applicant respectfully submits that the dependent claims of the present application are allowable for at least the reasons discussed above. Additionally, the dependent claims have further limitations that distinguish over the foregoing references, whether taken individually or in hypothetical combination. Therefore, applicant respectfully submits that the dependent claims of the present application should also now be found allowable.

Allowed Subject Matter

Claims 14-21, 24, 25, 27, and 29-34 were noted as allowed. Applicant thanks the Examiner for this notice of allowed claims.

Allowable Subject Matter

Claims 6-13 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant acknowledges and thanks the Examiner for this notice of allowable subject matter.

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CONCLUSION

In light of the foregoing amendment and remarks, applicant respectfully submits that the present application is now in condition for allowance. Applicant respectfully requests entry of the amendment and reconsideration and allowance of all claims. The Examiner is invited to telephone the undersigned attorney if there are any remaining issues.

Respectfully submitted,

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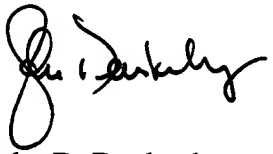

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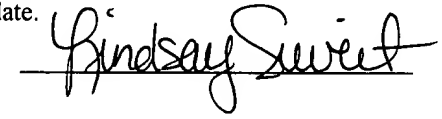
Date: 11/25/02 

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VERSION WITH MARKINGS TO SHOW CHANGES MADE NOVEMBER 25, 2002

In the claims:

1. (Twice Amended) A skate frame for an in-line skate, the skate having a shoe portion and a plurality of wheels capable of traversing a surface, the skate frame comprising:

(a) an elongate first structural member having first and second sidewalls depending downwardly from a first upper surface, the lower ends of the sidewalls being spaced to receive the wheels therebetween; and

(b) flexible vibration dampening means integrally formed with the sidewalls of the first structural member for absorbing at least a portion of vibrational energy transmitted from the surface to the shoe portion when the skate traverses the surface, wherein the flexible vibration dampening means comprises a contoured portion of each of the first and second sidewalls of the first structural member, the contoured portion having a predetermined cross sectional shape to permit the sidewalls to flex, thereby absorbing at least a portion of the vibrational energy associated with traversing the surface.

Claim 2 has been canceled.

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